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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1326 OF 2005
IN
SUIT NO.2787 OF 2003

Gopal Das Jagar Ram Pvt. Ltd.).. Plaintiffs

Versus

Meghraj Goyal and others).. Defendants

Mr.S.S. Joshi for the Plaintiffs.

Mr.Nagendra S. Dubey i/b.S.S. Dube for Defendant No.1.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 17TH JULY 2006

P.C.:

. The present Motion has been taken out for setting the Suit for ex-parte decree since no Written Statement was filed. It appears that the Plaintiffs filed the writ of summons on 20th March 2004. The Motion was served on the Defendants in April 2005. However, it seems that the Written Statement has been submitted on 19th May 2006 and the office of this Court has taken the same on record by endorsing the Written Statement as filed.

2. There is no doubt that there is delay in filing the Written Statement. The office in fact should not have accepted the Written Statement and endorsed it as

filed without leave of the Court.

3. In my view, in the circumstances of the case, the Defendant has made out a special case and reasons to accept the Written Statement. The Plaintiffs, however, contend that there has been a gross delay in filing the Written Statement and, therefore, the Written Statement should not be accepted.

4. In my view, now that the Written Statement is ready and in view of the fact that exceptional circumstances have been made out by the Defendant No.1 to accept the Written Statement, the same be accepted on condition that Defendant No.1 pays costs of Rs.5,000/- (Rupees Five Thousand only) to the Plaintiffs.

5. Motion disposed off accordingly.